

USDC SCAN INDEX SHEET



JUANITAS

TENET CORPORATION

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TENET HEALTHCARE CORPORATION, HARBOR VIEW
 MEDICAL CENTER and STEVE HALL

FILED

98 MAY 21 PM 12:05

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIABY: *J. Hulan* DEPUTY

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

OSCAR A. JUANITAS, JR.; SHIRLEY A.)
 MERCERI; N. PAUL SAMPSON; CYNTHIA)
 V. DE GUIA; DEBORAH A. KELLER;)
 DANIEL P. RODDEN; ARACELI C.)
 OCAMPO; GAIL A. SCHWARTZ; KENNETH)
 J. HOLMES; DENISE C. MARIANO;)
 SANDRA R. HAJEK; THOMAS W. KIRK;)
 PAMELA L. FANTIN; OTTO K. STOKES;)
 BRANDY L. LeBOHUF; TINA F. OAKS;)
 ALBERT D. RADLO; CINDY SILVER;)
 JOSEPHINE ADAME; JOHN HANK;)
 TERESA L. WINKLER; TINNIE WOMACK;)
 MARIETTA A. ALHAMBRA; MARGARET)
 HOLLOHAN; PAUL A. VIENS; MARY M.)
 MILLER-CORDOVA; MARY C. HACKER;)
 DAWN D. SEPPALA; WENDY)
 ANDRZEJEWSKI; MARK DOBRINA;)
 KAREN D. WILKINS; PATRICIA ABDEL-)
 RAZZAQ; NATHANIA D. LANG; VIRGILIO)
 N. FRESTO; PAULINE M. GONZALES;)
 ORLANDO REYNA; PATRICIA FLEECE;)
 MEGAN K. SMITH; BILL A. WATERS;)
 VIRGINIA I. ELSMORE; SONIA M.)
 MANALO; BRENDA L. GALZA; LORETTA)
 J. ALEXANDER; TERRY SAUNDERS;)
 DIANNE COLLINS; CORINNE BRUCK;)
 MILAGROS DATUGAN; ETHEL M.)
 LIZARRARAS; ROSALINA PINALES;)
 JANALEE ARNETT; TRUDY BOELMAN;)
 JOY MELHADO; SALLY NALEY;)
 DEBORAH LEICHTLING; BIENVENIDA)
 McINNIS; LOUISE Y. FLORES; ANNA)
 GUTIERREZ; FLORABEL A. TINIO;)
 LOURDES C. FARIN; MILO C.)
 MATTHEWS; MERLY LETE; CLYDE)

'98 CV 9585 (POR)
CASE NO.

NOTICE OF REMOVAL OF CIVIL
 ACTION NO. 719836 FROM THE
 SUPERIOR COURT OF THE
 STATE OF CALIFORNIA IN AND
 FOR THE COUNTY OF SAN
 DIEGO

[Federal Question]

1 STEVENSON, JR.; NORMA MARTINEZ;)
 2 ROSARIO PHILLIPS; MARITES G. MIPOL;)
 3 BELLA AQUINO; FERNANDO P.)
 4 BAUTISTA; COLLEEN F. MOORE; MARY)
 5 COHEN; ABEL C. GARCIA; MAGDALENA)
 6 D. ACAIN; NUNCIA M. RIVERA; DAVID)
 7 PERRY; CINDY FERGUSON; ELIZABETH)
 8 JAFFE; PATRICIA J. MYERS; LINNETTE)
 9 OAKLEY; EMERITA K. VIRAY; ELSA)
 ACACIO; DAHLIA TAYAG; ROSITA)
 ESTACIO; ROSALEEH T. ALAYON;)
 ORLANDA E. ECOJA; DOLORES)
 APOSTOL; BEVERLY D. WALKER; LILLIE)
 A. GALVAN; MARY K. AQUIMINGOC;)
 BEVERLY ROLING; and PATRICIA)
 FLORES)

10 Plaintiffs,

11 vs.

12 TENET CORPORATION; HARBOR VIEW)
 13 HOSPITAL; STEVE HALL; and DOES 1)
 through 100, Inclusive,)

14 Defendants.

15
 16 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

17 PLEASE TAKE NOTICE that Tenet Healthcare Corporation (erroneously sued
 18 herein as Tenet Corporation), Harbor View Medical Center (erroneously sued herein as Harbor
 19 View Hospital) and Steve Hall (collectively "Defendants"), Defendants in the civil action entitled
 20 OSCAR A. JUANITAS, JR.; SHIRLEY A. MERCER; N. PAUL SAMPSON; CYNTHIA V. DE
 21 GUIA; DEBORAH A. KELLER; DANIEL P. RODDEN; ARACELI C. OCAMPO; GAIL A.
 22 SCHWARTZ; KENNETH J. HOLMES; DENISE C. MARIANO; SANDRA R. HAJEK;
 23 THOMAS W. KIRK; PAMELA L. FANTIN; OTTO K. STOKES; BRANDY L. LeBOHUF;
 24 TINA F. OAKS; ALBERT D. RADLO; CINDY SILVER; JOSEPHINE ADAME; JOHN HANK;
 25 TERESA L. WINKLER; TINNIE WOMACK; MARIETTA A. ALHAMBRA; MARGARET
 26 HOLLOHAN; PAUL A. VIENS; MARY M. MILLER-CORDOVA; MARY C. HACKER;
 27 DAWN D. SEPPALA; WENDY ANDRZEJEWSKI; MARK DOBRINA; KAREN D. WILKINS;
 28 PATRICIA ABDEL-RAZZAQ; NATHANIA D. LANG; VIRGILIO N. FRESTO; PAULINE M.

1 GONZALES; ORLANDO REYNA; PATRICIA FLEECE; MEGAN K. SMITH; BILL A.
 2 WATERS; VIRGINIA I. ELSMORE; SONIA M. MANALO; BRENDA L. GALZA; LORETTA
 3 J. ALEXANDER; TERRY SAUNDERS; DIANNE COLLINS; CORINNE BRUCK; MILAGROS
 4 DATUGAN; ETHEL M. LIZARRARAS; ROSALINA PINALES; JANALEE ARNETT; TRUDY
 5 BOELMAN; JOY MELHADO; SALLY NALEY; DEBORAH LEICHTLING; BIENVENIDA
 6 McINNIS; LOUISE Y. FLORES; ANNA GUTIERREZ; FLORABEL A. TINIO; LOURDES C.
 7 FARIN; MILO C. MATTHEWS; MERLY LETE; CLYDE STEVENSON, JR.; NORMA
 8 MARTINEZ; ROSARIO PHILLIPS; MARITES G. MIPOL; BELLA AQUINO; FERNANDO
 9 P. BAUTISTA; COLLEEN F. MOORE; MARY COHEN; ABEL C. GARCIA; MAGDALENA
 10 D. ACAIN; NUNCIA M. RIVERA; DAVID PERRY; CINDY FERGUSON; ELIZABETH
 11 JAFFE; PATRICIA J. MYERS; LINNETTE OAKLEY; EMERITA K. VIRAY; ELSA ACACIO;
 12 DAHLIA TAYAG; ROSITA ESTACIO; ROSALEEH T. ALAYON; ORLANDA E. ECOJA;
 13 DOLORES APOSTOL; BEVERLY D. WALKER; LILLIE A. GALVAN; MARY K.
 14 AQUIMINGOC; BEVERLY ROLING; and PATRICIA FLORES, Plaintiffs, vs. TENET
 15 CORPORATION; HARBOR VIEW HOSPITAL; STEVE HALL; and DOES 1 through 100,
 16 Inclusive, Defendants., Case No. 719836, in the Superior Court of the State of California in and
 17 for the County of San Diego, Southern District, hereby jointly remove said action to the United
 18 States District Court for the Southern District of California pursuant to 28 U.S.C. §§ 1331 and
 19 1441(b). Removal is based upon the following grounds:

20 1. A civil action entitled OSCAR A. JUANITAS, JR.; SHIRLEY A.
 21 MERCERI; N. PAUL SAMPSON; CYNTHIA V. DE GUIA; DEBORAH A. KELLER; DANIEL
 22 P. RODDEN; ARACELI C. OCAMPO; GAIL A. SCHWARTZ; KENNETH J. HOLMES;
 23 DENISE C. MARIANO; SANDRA R. HAJEK; THOMAS W. KIRK; PAMELA L. FANTIN;
 24 OTTO K. STOKES; BRANDY L. LeBOHUF; TINA F. OAKS; ALBERT D. RADLO; CINDY
 25 SILVER; JOSEPHINE ADAME; JOHN HANK; TERESA L. WINKLER; TINNIE WOMACK;
 26 MARIETTA A. ALHAMBRA; MARGARET HOLLOHAN; PAUL A. VIENS; MARY M.
 27 MILLER-CORDOVA; MARY C. HACKER; DAWN D. SEPPALA; WENDY
 28

1 ANDRZEJEWSKI; MARK DOBRINA; KAREN D. WILKINS; PATRICIA ABDEL-RAZZAQ;
 2 NATHANIA D. LANG; VIRGILIO N. FRETO; PAULINE M. GONZALES; ORLANDO
 3 REYNA; PATRICIA FLEEGE; MEGAN K. SMITH; BILL A. WATERS; VIRGINIA I.
 4 ELSMORE; SONIA M. MANALO; BRENDA L. GALZA; LORETTA J. ALEXANDER;
 5 TERRY SAUNDERS; DIANNE COLLINS; CORINNE BRUCK; MILAGROS DATUGAN;
 6 ETHEL M. LIZARRARAS; ROSALINA PINALES; JANALEE ARNETT; TRUDY BOELMAN;
 7 JOY MELHADO; SALLY NALEY; DEBORAH LEICHTLING; BIENVENIDA McINNIS;
 8 LOUISE Y. FLORES; ANNA GUTIERREZ; FLORABEL A. TINIO; LOURDES C. FARIN;
 9 MILO C. MATTHEWS; MERLY LETE; CLYDE STEVENSON, JR.; NORMA MARTINEZ;
 10 ROSARIO PHILLIPS; MARITES G. MIPOL; BELLA AQUINO; FERNANDO P. BAUTISTA;
 11 COLLEEN F. MOORE; MARY COHEN; ABEL C. GARCIA; MAGDALENA D. ACAIN;
 12 NUNCIA M. RIVERA; DAVID PERRY; CINDY FERGUSON; ELIZABETH JAFFE;
 13 PATRICIA J. MYERS; LINNETTE OAKLEY; EMERITA K. VIRAY; ELSA ACACIO;
 14 DAHLIA TAYAG; ROSITA ESTACIO; ROSALEEH T. ALAYON; ORLANDA E. ECOJA;
 15 DOLORES APOSTOL; BEVERLY D. WALKER; LILLIE A. GALVAN; MARY K.
 16 AQUIMINGOC; BEVERLY ROLING; and PATRICIA FLORES, Plaintiffs, vs. TENET
 17 CORPORATION; HARBOR VIEW HOSPITAL; STEVE HALL; and DOES 1 through 100,
 18 Inclusive, Defendants., Case No. 719836, ("Complaint"), has been commenced and is now
 19 pending in the Superior Court of the State of California in and for the County of San Diego.

20 2. This Notice of Removal is filed within the thirty 30-day time period
 21 provided by 28 U.S.C. § 1446(b) in that it has been filed within thirty (30) days of Defendants'
 22 receipt of a copy of the Complaint.

23 3. The Complaint was filed in the state court action on or about April 16,
 24 1998. Defendants received a copy of the Complaint on April 22, 1998, and received no other
 25 pleadings prior to that date. A true and correct copy of the Complaint is attached hereto as
 26 Exhibit "A." Prior to the filing of this Notice of Removal, Defendants filed a "General Denial
 27 of Defendants Tenet Healthcare Corporation, Harbor View Medical Center and Steve Hall to
 28

1 Plaintiffs' Complaint" ("General Denial") in the state court action. A true and correct copy of
2 said General Denial is attached hereto as Exhibit "B." Defendants have not filed or been served
3 with any other pleadings, papers and/or orders in the state court action.

4 4. This is an action over which this Court has original jurisdiction under 28
5 U.S.C. § 1331 and is one which may be removed to this Court pursuant to 28 U.S.C. § 1441(b),
6 in that it states claims that arise under the Employment Retirement Income Security Act of 1974
7 ("ERISA"), 29 U.S.C. § 1001, et. seq.

8 5. The Complaint attempts to allege common law claims of 1) breach of
9 written contract, 2) breach of oral contract, 3) breach of implied covenant of good faith and fair
10 dealing, 4) promissory estoppel, 5) promissory fraud, 6) fraud, 7) negligent misrepresentation, 8)
11 concealment, 9) promise without intent to perform, 10) intentional interference with prospective
12 economic advantage, and 11) negligent interference with prospective economic advantage. Each
13 of Plaintiffs' claims are based upon the allegations that Defendants: 1) maintained a written
14 severance pay policy that entitled Plaintiffs to severance pay upon termination, and 2) promised
15 Plaintiffs "special severance packages," which "varied depending on the longevity of each
16 Plaintiff's employment." (Exh. "A," ¶¶ 11, 15, 16, 23). The Complaint further alleges that
17 Defendants breached the aforementioned severance plans by refusing to pay severance benefits
18 to Plaintiffs upon their termination (Exh. "A," ¶¶ 13, 18, 25, 31).

19 6. Although "artfully pled" and couched in state law contract, estoppel, fraud,
20 negligence, and interference claims in an effort to avoid federal jurisdiction, the Complaint
21 actually seeks to enforce the terms of a severance plan, which is manifestly governed by ERISA.
22 29 U.S.C. § 1002(1); 29 C.F.R. § 2510.3-1(a)(3); Bogue v. Ampex Corp., 976 F.2d 1319 (9th
23 Cir. 1992) (severance pay considered "employee welfare benefit plan" under ERISA). ERISA
24 preempts "any and all State laws insofar as they may now or hereafter relate to any employee
25 benefit plan." 29 U.S.C. § 1144(a). As such, Plaintiffs' claims are "completely preempted" and
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1 thus removable to this Court. Metropolitan Life Ins. Co. v. Taylor, 481 U.S. 58, 107 S.Ct. 1542
2 (1987).

3 7. Plaintiffs' federal claims and any remaining state claims arise out of a
4 common nucleus of operative facts; therefore, this Court may properly exercise supplemental
5 jurisdiction over any such state claims pursuant to 28 U.S.C. § 1367.

6 8. All named defendants consent to and join in this Notice of Removal.

7 DATED: May 20, 1998

8 LOEB & LOEB LLP
9 Raymond W. Thomas, Esq.
10 Marita Covarrubias, Esq.
11 Richard J. Frey, Esq.

12 By MCovarrubias
13 Marita Covarrubias
14 Attorneys for Defendants
15 Tenet Healthcare Corporation,
16 Harbor View Medical Center and Steve Hall
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1 GEORGE P. ANDREOS, APIC
 2 George P. Andros (SEN 035812)
 3 11408 West Bernardo Court, Ste. 203
 4 San Diego, California 92127-1639
 5 (619) 675-8691

6 Attorney for Plaintiffs
 7
 8
 9
 10

FILED
CIVIL DIVISION

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KENNETH E. MARTONE
CLERK - SUPERIOR COURT
SAN DIEGO COUNTY, CA

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF SAN DIEGO

Case No.

719836

COMPLAINT FOR:

- 1) BREACH OF WRITTEN CONTRACT
- 2) BREACH OF ORAL CONTRACT
- 3) BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING
- 4) PROMISSORY ESTOPPEL
- 5) PROMISSORY FRAUD
- 6) FRAUD
- 7) NEGLIGENT MISREPRESENTATION
- 8) CONCEALMENT
- 9) PROMISE WITHOUT INTENT TO PERFORM
- 10) INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE
- 11) NEGLIGENT INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE

OSCAR A. JUANITAS, JR.; SHIRLEY A. MERCERI; M. PAUL SAMPSON; CYNTHIA V. DE GUIA; DEBORAH A. KELLER; DANIEL P. RODDEN; ANACELI C. OCAMPO; GAIL A. SCHWARTZ; KENNETH J. HOLMES; DENISE C. MARIANO; SANDRA R. HAJEK; THOMAS W. KIRK; PAMELA L. FANTIN; OTTO E. STOKES; BRANDY L. LEBORUF; TINA F. OAKS; ALBERT D. RADLO; CINDY SILVER; JOSEPHINE ADAMS; JOHN HANK; TERESA L. WINKLER; TINNIE WOMACK; MARIETTA A. ALHAMBRA; MARGARET HOLLOHAN; PAUL A. VIENS; MARY M. MILLER-CORDOVA; MARY C. HACKER; DAWN D. SEPPALA; WENDY ANDRZEJEWSKI; MARK DOBRINA; KAREN D. WILKINS; PATRICIA ABDEL-RASBAQ; NATHANIA D. LANG; VIRGILIO M. PRESTO; PAULINE M. GONZALES; ORLANDO REYNA; PATRICIA FLEECE; MEGAN K. SMITH; BILL A. WATERS; VIRGINIA I. ELSMORE; SONIA M. MANALO; BRENDA L. GALEA; LORETTA J. ALEXANDER; TERRY SAUNDERS; DIANNE COLLINS; CORINNE BRUCK; MILAGROS DATUGAN; ETHEL M. LIZARRABAS; ROSALINA PINALES; JANALEE ARNETT; TRUDY BOELMAN; JOY MELHADO; SALLY HALEY; DEBORAH LEICHTLING; BIENVENIDA MCINNIS; LOUISE Y. FLORES; ANNA GUTIERRES; FLORABEL A. TINIO; LOURDES C. FARIN; MILO C. MATTHEWS; MERLY LETE; CLYDE STEVENSON, JR.; NORMA MARTINEZ; ROSARIO PHILLIPS;

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1 MARIYES G. HIPOL; BELLA AQUINO;
 2 FERNANDO P. BAUTISTA; COLLEEN F.
 3 MOORE; MARY COHEN; ABEL C. GARCIA;
 4 MAGDALENA D. ACAIN; NUNCIA M.
 5 RIVERA; DAVID PERRY; CINDY
 6 FERGUSON; ELIZABETH JAFFE;
 7 PATRICIA J. MYERS; LINNETTE
 8 OAKLEY; EMERITA K. VIRAY; RISA
 9 ACACIO; DANLIA TAYAG; ROBITA
 10 ESTACIO; ROSALEEN T. ALAYON;
 11 ORLANDA E. ECOJA; DOLORES APOSTOL;
 12 BEVERLY D. WALKER; LILLIE A.
 13 GALVAN; MARY K. AQUININGOC;
 14 BEVERLY ROLING; and PATRICIA
 15 FLORES

16 Plaintiffs,

17 v.

18 TENET CORPORATION; HARBOR VIEW
 19 HOSPITAL; STEVE HALL; and DOES 1
 20 through 100, inclusive,

21 Defendants.

22 Plaintiffs allege:

23 GENERAL ALLEGATIONS FOR ALL CAUSES OF ACTION

24 1. Plaintiffs are residents of the County of San Diego,
 25 California. Plaintiffs were all employees of Defendants TENET
 26 CORPORATION and HARBOR VIEW HOSPITAL at all times herein mentioned.

27 2. Plaintiffs allege that the agreements sued upon herein were
 28 entered into in the County of San Diego, California, and that the acts
 complained of herein and the resulting damage to Plaintiffs occurred in
 the County of San Diego, California.

3. Plaintiffs are informed and believe and thereon allege that
 Defendant TENET CORPORATION (hereinafter "TENET") is and at all times
 herein mentioned was a corporation duly organized and qualified to do
 business in the County of San Diego, State of California.

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1 4. Plaintiffs are informed and believe and thereon allege that
2 Defendant HARBOR VIEW HOSPITAL (hereinafter "HARBOR VIEW") is and at all
3 times herein mentioned was a corporation duly qualified to do business
4 in the State of California, with its principal place of business in the
5 City of San Diego, State of California.

6 5. Plaintiffs are informed and believe and thereon allege that
7 TENET owns and controls a wholly owned subsidiary of the company known
8 as HARBOR VIEW and exercises substantial authority in devising and
9 implementing employment practices and policies at HARBOR VIEW.
10 Plaintiffs further allege that HARBOR VIEW was a duly authorized agent
11 of TENET. All actions taken by HARBOR VIEW were in the course and scope
12 of its agency with TENET, said actions were performed at the direction
13 and request of TENET, and said actions were performed for the benefit of
14 TENET.

15 6. Plaintiffs are informed and believe and thereon allege that
16 Defendant STEVE HALL (hereinafter "HALL") is an individual who was the
17 Chief Executive Officer of HARBOR VIEW. In his capacity as the Chief
18 Executive Officer of HARBOR VIEW, HALL was a duly authorized agent and
19 employee of HARBOR VIEW and TENET. Plaintiff further alleges that all
20 actions taken by HALL were in the course and scope of his agency and
21 employment with HARBOR VIEW and TENET, that said actions were performed
22 at the direction and request of HARBOR VIEW and TENET, and that said
23 actions were performed for the benefit of HARBOR VIEW and TENET.

24 7. Plaintiffs are unaware of the true names and capacities,
25 whether individual, associate, corporate, or otherwise, of the
26 Defendants sued herein as DOES 1 through 100, inclusive, and therefore
27 sue these Defendants by such fictitious names. Plaintiff will seek
28 leave of Court to amend this Complaint to allege their true names and

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1 capacities when ascertained. Plaintiffs are informed and believe and
2 thereon allege that each of the fictitiously named Defendants is
3 responsible in some manner for the occurrences alleged herein, and that
4 Plaintiffs' damages as alleged herein were proximately and legally
5 caused by Defendants' conduct.

6 8. Plaintiffs are informed and believe and thereon allege that at
7 all times herein mentioned each of the Defendants was the agent and
8 employee of the remaining Defendants, and in doing the things alleged
9 herein, was acting within the course and scope of such agency and with
10 the permission and consent of the remaining Defendants.

11 9. In or about January 1997, TENET acquired several hospitals and
12 medical facilities, including HARBOR VIEW. Shortly thereafter,
13 Plaintiffs believed that TENET was going to close HARBOR VIEW.

14 10. Due to the belief of impending hospital closure and potential
15 loss of their jobs, several HARBOR VIEW employees obtained alternative
16 employment.

17 11. In an effort to stop the flow of exiting employees, including
18 Plaintiffs, in or about March 1997, TENET informed HALL that TENET would
19 provide special severance packages to all of those employees who
20 remained with HARBOR VIEW until HARBOR VIEW terminated them. HALL
21 informed Plaintiffs that if they remained with HARBOR VIEW until their
22 services were no longer needed, they would receive severance packages.
23 The severance packages which were offered varied depending on the
24 longevity of each Plaintiff's employment, but generally consisted of
25 paying one month's pay for each year of employment, up to a maximum of
26 five month's pay.

27 12. Plaintiffs reasonably relied upon the foregoing
28 representations made by HALL, TENET and HARBOR VIEW and either declined

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1 employment elsewhere or abated their search for employment elsewhere in
2 order to remain with HARBOR VIEW until terminated. Plaintiffs agreed to
3 remain with HARBOR VIEW in consideration of Defendants' promise to
4 provide severance benefits if they stayed with HARBOR VIEW.

6 13. In or about May 1997, Defendants commenced terminating
6 Plaintiffs and in or about July 1997, HARBOR VIEW HOSPITAL closed.
7 Plaintiffs did not receive the promised severance benefits, and
8 Defendants refuse to pay the severance package as promised.

9 FIRST CAUSE OF ACTION

10 BREACH OF WRITTEN CONTRACT

11 (Against TENET and HARBOR VIEW)

12 14. Plaintiffs reallege and incorporate herein by reference, as
13 though set forth in full, each and every allegation contained in each
14 and every preceding paragraph of this Complaint.

15 15. Defendants have a written policy regarding severance pay
16 including the employees of HARBOR VIEW. This written policy was
17 provided by Defendants as part of the terms of employment. Plaintiffs,
18 as employees of Defendants, were aware of Defendants' written policy
19 regarding severance pay and agreed to the terms of the written policy as
20 a condition to their employment with Defendants.

21 16. The written policy states that severance pay will be paid to
22 employees similarly situated to Plaintiffs who were terminated. The
23 written policy also includes a provision that the prevailing party in
24 any litigation arising out of the contract is entitled to recover
25 attorney's fees and costs.

26 17. When Defendants closed HARBOR VIEW HOSPITAL in July 1997, it
27 decreased the work force of Defendants.

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1 18. TENET and HARBOR VIEW breached their agreement with Plaintiffs
2 by failing to adhere to their own written policy regarding severance pay
3 by failing to pay terminated employees the severance pay to which they
4 were entitled pursuant to the written severance pay policy.

5 19. Plaintiffs have performed all obligations to Defendants except
6 those obligations Plaintiffs were prevented or excused from performing.

7 20. Plaintiffs reasonably relied, to their detriment, upon the
8 representations, promises, and agreements made by Defendants. In May
9 1997, Defendants repudiated their promise to pay severance to
10 Plaintiffs.

11 21. As a direct, foreseeable, and proximate result of Defendants'
12 breach and the facts alleged herein, Plaintiffs suffered damages of
13 \$250,000.00 or an amount according to proof at the time of trial,
14 together with interest thereon, attorneys' fees, and costs incurred.

15 SECOND CAUSE OF ACTION

16 BREACH OF ORAL CONTRACT

17 (Against All Defendants).

18 22. Plaintiffs reallege and incorporate herein by reference, as
19 though set forth in full, each and every allegation contained in each
20 and every preceding paragraph of this Complaint.

21 23. In or about March 1997, Defendants informed HALL that TENET
22 would provide special severance packages to all of those employees who
23 remained with HARBOR VIEW until terminated by HARBOR VIEW. HALL informed
24 Plaintiffs' supervisors that those employees who remained with HARBOR
25 VIEW until terminated would receive severance packages equal to one
26 month's salary for each year of longevity up to a maximum five months.

27 24. In consideration of Defendants' promise to provide future
28 severance benefits if the Plaintiffs continued to work for HARBOR VIEW

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1 and TENET until terminated, Plaintiffs either declined employment
2 elsewhere or abated their search for employment elsewhere and agreed to
3 continue working for HARBOR VIEW and TENET until terminated or until
4 July 5 1997, the announced closure date.

5 25. Defendants breached their agreement with Plaintiffs by
6 refusing to pay the severance benefits as promised.

7 26. Plaintiffs have performed all obligations to Defendants except
8 those obligations Plaintiffs were prevented or excused from performing.

9 27. Plaintiffs reasonably relied, to their detriment, upon the
10 representations, promises, and agreements made by defendants.

11 28. As a direct, foreseeable, and proximate result of Defendants'
12 breach and the facts alleged herein, Plaintiffs suffered damages in an
13 amount of one month's salary for each year of longevity or according to
14 proof at the time of trial, together with interest thereon and costs
15 incurred.

16 THIRD CAUSE OF ACTION

17 BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING

18 (Against All Defendants)

19 29. Plaintiffs reallege and incorporate herein by reference, as
20 though set forth in full, each and every allegation contained in each
21 and every preceding paragraph of this Complaint.

22 30. The written and oral contracts between the parties, as alleged
23 above, contained an implied covenant of good faith and fair dealing,
24 which covenant inheres in every contract, and which obligated the
25 Defendants to admit and recognize and perform the terms and conditions
26 of the contract fairly and in good faith, and to refrain from denying or
27 doing any act that would deprive Plaintiffs the benefits of each
28 contract.

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31. Defendants breached the foregoing covenant and acted in bad faith by their actions and inaction by 1) Denying that such a promise was made or that Plaintiffs are entitled to any severance pay, 2) promising to pay Plaintiffs severance benefits if they continued to work for HARBOR VIEW and TENET until terminated, and 3) refusing to pay the benefits promised.

32. Plaintiffs have performed all obligations to Defendants except those obligations Plaintiffs were prevented or excused from performing.

33. Plaintiffs reasonably relied, to their detriment, upon the representations, promises, and agreements made by Defendants.

34. As a direct, foreseeable, and proximate result of Defendants' breach and the facts alleged herein, Plaintiffs suffered damages in an amount according to proof at the time of trial, together with interest thereon, and costs incurred.

FOURTH CAUSE OF ACTION

PROMISSORY ESTOPPEL

(Against All Defendants)

35. Plaintiffs reallege and incorporate herein by reference, as though set forth in full, each and every allegation contained in each and every preceding paragraph of this Complaint.

36. In or about January 1997 and March 1997, respectively, Plaintiffs' employers and Defendants promised Plaintiffs that they would 1) pay Plaintiffs severance benefits upon the closure of HARBOR VIEW and 2) pay Plaintiffs severance benefits if they continued to work for HARBOR VIEW and TENET until terminated.

37. TENET and HARBOR VIEW, as Plaintiffs' employer, should have reasonably expected that the promise would induce action or forbearance on the part of the Plaintiffs including but not limited to the

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1 following: TENET and HARBOR VIEW should have reasonably expected that
2 Plaintiffs would accept employment with TENET and HARBOR VIEW, would
3 continue to work for TENET and HARBOR VIEW knowing that HARBOR VIEW
4 would be closed on or about July 5, 1997, would refrain from seeking
5 alternate employment before HARBOR VIEW closed, and declined alternate
6 employment before terminated.

7 38. The promise to pay severance benefits did in fact induce
8 action or forbearance on the part of Plaintiffs. The action or
9 forbearance that TENET and HARBOR VIEW's promises induced included, but
10 was not limited to: Plaintiffs accepted/maintained employment with
11 TENET and HARBOR VIEW, continued to work for TENET and HARBOR VIEW
12 knowing that HARBOR VIEW would be closed about July 5, 1997, refrained
13 from seeking alternate employment even though they knew that HARBOR VIEW
14 would be closed, and declined alternate employment when they knew that
15 HARBOR VIEW would close.

16 39. Plaintiffs are informed and believe and thereon allege that an
17 injustice to them can be avoided only by enforcing the promise by
18 Defendants to Plaintiffs that Defendants would provide severance pay to
19 the Plaintiffs if they continued to work at/for HARBOR VIEW and TENET
20 until terminated, due to closure.

21 40. As a direct, foreseeable, and proximate result of Defendants'
22 breach and the facts alleged herein, Plaintiffs suffered damages in an
23 amount equal to one month's pay for each year of longevity or according
24 to proof at the time of trial, together with interest thereon and costs
25 incurred.

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FIFTH CAUSE OF ACTION**PROMISSORY FRAUD**

(Against All Defendants)

41. Plaintiffs reallege and incorporate herein by reference, as though set forth in full, each and every allegation contained in each and every preceding paragraph of this Complaint.

42. Plaintiffs allege that in or about March 1997 Defendants made a promise as to a material matter, to wit: that Defendants would provide a severance package to the employees of HARBOR VIEW and TENET, provided that Plaintiffs continued to work at/for HARBOR VIEW until terminated. At the time that this promise was made, the Defendants did not intend to carry out their obligations.

43. The Defendants made the promise to provide a severance package with an intent to defraud the Plaintiffs. That is, the Defendants made the promise for the purpose of inducing the Plaintiffs to rely upon the promise of severance pay and to 1) remain working for TENET and HARBOR VIEW until terminated, 2) refrain from seeking alternate employment until terminated, and 3) decline alternate employment until HARBOR VIEW terminated.

44. At the time that the promise was made, the Plaintiffs were unaware that the Defendants did not intend to perform the promise and provide severance packages. The Plaintiffs acted in reliance upon the promise by 1) continuing to work for TENET and HARBOR VIEW until terminated, 2) refraining from seeking alternate employment until terminated, and 3) declining alternate employment until terminated. The Plaintiffs were justified in relying upon the promises made by the Defendants because a promise to pay severance benefits in the future is sufficient consideration for the Plaintiffs to enter into a contract

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1 whereby the Plaintiffs forego their rights to seek other employment.

2 45. As a direct, foreseeable, and proximate result of Defendants'
3 misrepresentations and the facts alleged herein, Plaintiffs suffered
4 damages in an amount according to proof at the time of trial, together
5 with interest thereon, and costs incurred.

6 46. Defendants committed all of the acts, as hereinabove alleged,
7 maliciously, fraudulently, oppressively, and despicably with the
8 wrongful intention of injuring the Plaintiffs and in conscious disregard
9 of the Plaintiffs' rights so as to justify an award of exemplary and
10 punitive damages in the sum of \$10,000,000.00 pursuant to California
11 Civil Code Section 3294.

12 SIXTH CAUSE OF ACTION

13 FRAUD/INTENTIONAL MISREPRESENTATION

14 (Against All Defendants.)

15 47. Plaintiffs reallege and incorporate herein by reference, as
16 though set forth in full, each and every allegation contained in each
17 and every preceding paragraph of this Complaint.

18 48. Plaintiffs allege that in or about March 1997, Defendants made
19 representations of material facts to wit: that in an effort to
20 discourage Plaintiffs from leaving HARBOR VIEW prior to the date that it
21 closed, Defendants TENET and HARBOR VIEW would provide severance pay
22 packages to Plaintiffs if they continued to work at/for HARBOR VIEW
23 until terminated by Plaintiffs.

24 49. These representations were in fact false in that TENET and
25 HARBOR VIEW did not provide severance pay packages to Plaintiffs who
26 continued to work at/for HARBOR VIEW until HARBOR VIEW terminated their
27 services.

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1 50. When Defendants made these representations, they knew that the
2 representations were false. Defendants made these representations with
3 the intent to defraud and induce the Plaintiffs to 1) continue working
4 for TENET and HARBOR VIEW until terminated, 2) forego seeking alternate
5 employment until terminated, and 3) decline alternate employment until
6 terminated. At the time Plaintiffs acted, they did not know that the
7 representations were false and believed that the representations were
8 true. Plaintiffs acted in justifiable reliance upon the truth of the
9 representations because a promise to pay severance benefits in the
10 future is sufficient consideration for the Plaintiffs to enter into a
11 contract whereby the Plaintiffs forego their rights to seek other
12 employment.

13 51. As a direct, foreseeable, and proximate result of Defendants'
14 misrepresentations and the facts alleged herein, Plaintiffs suffered
15 damages in an amount according to proof at the time of trial, together
16 with interest thereon, and costs incurred.

17 52. Defendants committed all of the acts, as hereinabove alleged,
18 maliciously, fraudulently, oppressively, and despicably with the
19 wrongful intention of injuring Plaintiffs and in conscious disregard of
20 Plaintiffs' rights so as to justify the award of exemplary and punitive
21 damages in the sum of \$10,000,000.00 pursuant to California Civil Code
22 Section 3294.

23 **SEVENTH CAUSE OF ACTION**

24 **NEGLIGENT MISREPRESENTATION**

25 (Against All Defendants)

26 53. Plaintiffs reallege and incorporate herein by reference, as
27 though set forth in full, each and every allegation contained in each
28 and every preceding paragraph of this Complaint.

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1 54. Plaintiffs allege that in or about March 1997, Defendants made
2 representations of material facts to wit: that in an effort to
3 discourage Plaintiffs from leaving HARBOR VIEW prior to the date that it
4 closed, Defendants TENET and HARBOR VIEW would provide severance pay
5 packages to Plaintiffs if they continued to work at/for HARBOR VIEW
6 until terminated. The expected closure date was July 3, 1997.

7 55. These representations were in fact false in that TENET and
8 HARBOR VIEW did not provide severance pay packages to the Plaintiffs who
9 continued to work at/for HARBOR VIEW until terminated.

10 56. When Defendants made these representations, Defendants had no
11 reasonable ground for believing the representations were true and knew
12 or should have known that the representations were false. Defendants
13 made these representations with the intent to defraud and induce the
14 Plaintiffs to 1) continue working for TENET and HARBOR VIEW until
15 terminated, 2) forego seeking alternate employment until terminated, and
16 3) decline alternate employment until terminated. At the time
17 Plaintiffs acted, they did not know that the representations were false
18 and believed that the representations were true. Plaintiffs acted in
19 justifiable reliance upon the truth of the representations because a
20 promise to pay severance benefits in the future is sufficient
21 consideration for the Plaintiffs to enter into a contract whereby the
22 Plaintiffs forego their rights to seek other employment.

23 57. As a direct, foreseeable, and proximate result of Defendants'
24 misrepresentations and the facts alleged herein, Plaintiffs suffered
25 damages in an amount of \$250,000.00 or according to proof at the time of
26 trial, together with interest thereon and costs incurred.

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EIGHTH CAUSE OF ACTIONCONCEALMENT

(Against All Defendants)

58. Plaintiffs reallege and incorporate herein by reference, as though set forth in full, each and every allegation contained in each and every preceding paragraph of this Complaint.

59. In or about January 1997 and March 1997, Defendants concealed or suppressed material facts, including but not limited to the fact that they did not intend to pay any severance pay benefits whatsoever to the Plaintiffs.

60. Defendants concealed or suppressed the above alleged material facts that they were bound to disclose and told Plaintiffs other facts, as alleged above, in order to mislead Plaintiffs and prevent Plaintiffs from discovering the concealed or suppressed facts. HARBOR VIEW HOSPITAL closed July 3, 1997.

61. Defendants concealed or suppressed these facts with the intent to defraud and induce Plaintiffs to 1) continue working for TENET and HARBOR VIEW until terminated, 2) forego seeking alternate employment until terminated, and 3) decline alternate employment until terminated. At the time Plaintiffs acted, Plaintiffs were unaware of the concealed or suppressed facts above described. Had Plaintiffs been aware of the concealed and suppressed facts above described, Plaintiffs would not have remained with HARBOR VIEW until it closed, but would have sought alternate employment, and would not have declined offers of employment.

62. As a direct, foreseeable, and proximate result of Defendants' concealment, misrepresentations and the facts alleged herein, Plaintiffs suffered damages in an amount of \$250,000.00 or according to proof at the time of trial, together with interest thereon, and costs incurred.

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63. Defendants committed all of the acts, as hereinabove alleged, maliciously, fraudulently, oppressively, and despicably with the wrongful intention of injuring Plaintiffs and in conscious disregard of Plaintiffs' rights so as to justify the award of exemplary and punitive damages in the sum of \$10,000,000.00 pursuant to California Civil Code Section 3294.

WITHE CAUSE OF ACTION

PROMISE WITHOUT INTENT TO PERFORM

(Against All Defendants)

64. Plaintiffs reallege and incorporate herein by reference, as though set forth in full, each and every allegation contained in each and every preceding paragraph of this Complaint.

65. In or about March 1997, Defendants promised to provide severance pay benefits if the work force for TENET decreased. In or about March 1997, Defendants promised to provide severance pay benefits if Plaintiffs continued to work for HARBOR VIEW and TENET until HARBOR VIEW closed. Defendants made these promises without any intention of performing them.

66. Defendants' promises without any intention of performance were made with the intent to defraud and induce Plaintiffs to 1) accept employment with HARBOR VIEW and TENET, 2) continue working for TENET and HARBOR VIEW until HARBOR VIEW closed, 3) forego seeking alternate employment until HARBOR VIEW closed, and 4) decline alternate employment until HARBOR VIEW closed. At the time Plaintiffs acted, Plaintiffs were unaware of Defendants' intention not to perform the promises. Plaintiffs acted in justifiable reliance upon the promise. A promise to pay severance benefits in the future is sufficient consideration for the Plaintiffs to enter into a contract whereby the Plaintiffs forego their

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1 rights to seek other employment.

2 67. In justifiable reliance upon Defendants' conduct, Plaintiffs
3 were induced to 1) accept employment with HARBOR VIEW and TENET, 2)
4 continue working for TENET and HARBOR VIEW until terminated or HARBOR
5 VIEW closed, 3) forgo seeking alternate employment until terminated or
6 HARBOR VIEW closed, and 4) decline alternate employment until terminated
7 or HARBOR VIEW closed.

8 68. Because of Plaintiffs' justifiable reliance upon Defendants'
9 conduct and as a direct, foreseeable, and proximate result of
10 Defendants' misrepresentations and the facts alleged herein, Plaintiffs
11 suffered damages in an amount according to proof at the time of trial,
12 together with interest thereon and costs incurred.

13 69. Defendants committed all of the acts, as hereinabove alleged,
14 maliciously, fraudulently, oppressively, and despicably with the
15 wrongful intention of injuring Plaintiffs and in conscious disregard of
16 Plaintiffs' rights so as to justify the award of exemplary and punitive
17 damages.

18 TENTH CAUSE OF ACTION

19 INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE

20 (Against All Defendants)

21 70. Plaintiffs reallege and incorporate herein by reference, as
22 though set forth in full, each and every allegation contained in each
23 and every preceding paragraph of this Complaint.

24 71. A prospective economic relationship existed between the
25 Plaintiffs and the employers with whom Plaintiffs could have obtained
26 alternate employment prior to the date that HARBOR VIEW closed or
27 Plaintiffs were terminated.

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1 72. The Defendants knew of the existence of these prospective
2 relationships.

3 73. The Defendants intentionally engaged in acts or conduct
4 designed to interfere with and disrupt these relationships or to prevent
5 them from materializing, to wit: Defendants told Plaintiffs that
6 Plaintiffs would receive severance pay benefits if the Plaintiffs
7 continued to work for HARBOR VIEW and TENET until terminated or HARBOR
8 VIEW closed.

9 74. The prospective economic relationships were actually
10 interfered with and disrupted in that the Plaintiffs continued to work
11 for HARBOR VIEW and TENET until HARBOR VIEW closed or Plaintiffs were
12 earlier terminated, the Plaintiffs did not seek alternate employment
13 until HARBOR VIEW terminated, and the Plaintiffs declined alternate
14 employment until terminated

15 75. The Defendants' acts, as herein described, were designed to
16 interfere and disrupt these relationships or prevent them from
17 materializing. Defendants' acts caused the Plaintiffs damages in an
18 amount of \$250,000.00 or according to proof at the time of trial,
19 together with interest thereon, and costs incurred.

20 76. Defendants committed all of the acts, as hereinabove alleged,
21 maliciously, fraudulently, oppressively, and despicably with the
22 wrongful intention of injuring Plaintiffs and in conscious disregard of
23 Plaintiffs' rights so as to justify the award of exemplary and punitive
24 damages in the sum of \$10,000,000.00 pursuant to California Civil Code
25 Section 3294.

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AT

ELEVENTH CAUSE OF ACTION**NEGLIGENT INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**

(Against All Defendants)

77. Plaintiffs reallege and incorporate herein by reference, as though set forth in full, each and every allegation contained in each and every preceding paragraph of this Complaint.

78. A prospective economic relationship existed between the Plaintiffs and the employers with whom Plaintiffs could have obtained alternate employment prior to the date that HARBOR VIEW closed.

79. The Defendants knew of the existence of these prospective relationships and were aware, or should have been aware, that if they did not act with due care in their actions, as herein described, it would interfere with these relationships or prevent them from materializing and cause the Plaintiffs to lose in whole or in part the probable future economic benefit or advantage from these relationships.

80. The Defendants thus failed to exercise due care in promising that they would pay severance benefits to the Plaintiffs if the Plaintiffs continued to work for TENET and HARBOR VIEW until terminated, knowing their promise was false, thereby interfering with the prospective economic relationships or preventing them from materializing.

81. The negligence of the Defendants actually and proximately caused the Plaintiffs damages. Namely, the relationships were actually interfered with, prevented from occurring, or disrupted, and the Plaintiffs lost in whole or in part the economic benefits or advantage from those relationships in an amount according to proof at the time of trial, together with interest thereon, and costs incurred.

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1 WHEREFORE, Plaintiffs pray judgment as follows:

2 1. For special damages in an amount unknown at this time, but
3 which will be shown according to proof to be presented at the time of
4 trial;

5 2. For interest on said special damages at the legal rate of
6 interest;

7 3. For general damages in an amount according to proof at the
8 time of trial;

9 4. For exemplary and punitive damages;

10 5. For reasonable attorneys' fees;

11 6. For costs of suit herein incurred; and

12 7. For such other and further relief as the Court may deem just
13 and proper.

14 Dated: 4-16-98


15 GEORGE P. ANDROS, Attorney
16 for Plaintiffs

17 4/15/98/c:\wp60\data\gpa\jmarfms.co



PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 10100 Santa Monica Boulevard, Suite 2200, Los Angeles, California 90067.

On May 21, 1998, I served the foregoing document(s) described as GENERAL DENIAL OF DEFENDANTS TENET HEALTHCARE CORPORATION, HARBOR VIEW MEDICAL CENTER AND STEVE HALL on the interested parties in this action:

___ by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:

X by placing ___ the original X a true copy thereof enclosed in sealed envelopes addressed as follows:

George P. Andreos, APLC
11405 West Bernardo Court
Suite 203
San Diego, California 92127-1639

X (BY MAIL) ___ I deposited such envelope in the mail at ____, California. The envelope was mailed with postage thereon fully prepaid.

X As follows: On this date I placed such envelope(s) for deposit at the location in this place of business utilized for the deposit of mail in the United States Postal Service. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. I followed that practice. Under that practice such envelope(s) would be deposited with United States Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on May 21, 1998, at Los Angeles, California.

___ (BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on ____, 1998, at Los Angeles, California.

X (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

___ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Michelle Mapstead
Type or Print Name

Michelle Mapstead
Signature

LOEB & LOEB LLP

RAYMOND W. THOMAS, ESQ. (Bar #072916)
 MARITA COVARRUBIAS, ESQ. (Bar #156460)
 RICHARD J. FREY, ESQ. (Bar #174120)
 10100 Santa Monica Blvd., Suite 2200
 Los Angeles, California 90067-4164
 Telephone: (310) 282-2000

Attorneys for Defendants

TENET HEALTHCARE CORPORATION,
 HARBOR VIEW MEDICAL CENTER and STEVE HALL

FILED

MAY 21 1998

FRK U.S. DISTRICT

J. Haslam DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF SAN DIEGO

OSCAR A. JUANITAS, JR.; SHIRLEY A.)
 MERCERI; N. PAUL SAMPSON; CYNTHIA)
 V. DE GUIA; DEBORAH A. KELLER;)
 DANIEL P. RODDEN; ARACELI C.)
 OCAMPO; GAIL A. SCHWARTZ; KENNETH)
 J. HOLMES; DENISE C. MARIANO;)
 SANDRA R. HAJEK; THOMAS W. KIRK;)
 PAMELA L. FANTIN; OTTO K. STOKES;)
 BRANDY L. LeBOHUF; TINA F. OAKS;)
 ALBERT D. RADLO; CINDY SILVER;)
 JOSEPHINE ADAME; JOHN HANK;)
 TERESA L. WINKLER; TINNIE WOMACK;)
 MARIETTA A. ALHAMBRA; MARGARET)
 HOLLOHAN; PAUL A. VIENS; MARY M.)
 MILLER-CORDOVA; MARY C. HACKER;)
 DAWN D. SEPPALA; WENDY)
 ANDRZEJEWSKI; MARK DOBRINA;)
 KAREN D. WILKINS; PATRICIA ABDEL-)
 RAZZAQ; NATHANIA D. LANG; VIRGILIO)
 N. FRESTO; PAULINE M. GONZALES;)
 ORLANDO REYNA; PATRICIA FLEECE;)
 MEGAN K. SMITH; BILL A. WATERS;)
 VIRGINIA I. ELSMORE; SONIA M.)
 MANALO; BRENDA L. GALZA; LORETTA)
 J. ALEXANDER; TERRY SAUNDERS;)
 DIANNE COLLINS; CORINNE BRUCK;)
 MILAGROS DATUGAN; ETHEL M.)
 LIZARRARAS; ROSALINA PINALES;)
 JANALEE ARNETT; TRUDY BOELMAN;)
 JOY MELHADO; SALLY NALEY;)
 DEBORAH LEICHTLING; BIENVENIDA)
 McINNIS; LOUISE Y. FLORES; ANNA)
 GUTIERREZ; FLORABEL A. TINIO;)
 LOURDES C. FARIN; MILO C.)
 MATTHEWS; MERLY LETE; CLYDE)

CASE NO. 719836

**GENERAL DENIAL OF
 DEFENDANTS TENET
 HEALTHCARE CORPORATION,
 HARBOR VIEW MEDICAL
 CENTER AND STEVE HALL TO
 PLAINTIFFS' COMPLAINT**

1 STEVENSON, JR.; NORMA MARTINEZ;)
 2 ROSARIO PHILLIPS; MARITES G. MIPOL;)
 3 BELLA AQUINO; FERNANDO P.)
 4 BAUTISTA; COLLEEN F. MOORE; MARY)
 5 COHEN; ABEL C. GARCIA; MAGDALENA)
 6 D. ACAIN; NUNCIA M. RIVERA; DAVID)
 7 PERRY; CINDY FERGUSON; ELIZABETH)
 8 JAFFE; PATRICIA J. MYERS; LINNETTE)
 9 OAKLEY; EMERITA K. VIRAY; ELSA)
 10 ACACIO; DAHLIA TAYAG; ROSITA)
 11 ESTACIO; ROSALEEH T. ALAYON;)
 12 ORLANDA E. ECOJA; DOLORES)
 13 APOSTOL; BEVERLY D. WALKER; LILLIE)
 14 A. GALVAN; MARY K. AQUIMINGOC;)
 15 BEVERLY ROLING; and PATRICIA)
 16 FLORES)

17 Plaintiffs,

18 vs.

19 TENET CORPORATION; HARBOR VIEW)
 20 HOSPITAL; STEVE HALL; and DOES 1)
 21 through 100, Inclusive,)
 22)
 23)
 24)
 25)
 26)
 27)
 28)

Defendants.

1. Defendants Tenet Healthcare Corporation (erroneously named as Tenet Corporation), Harbor View Medical Center (erroneously sued herein as Harbor View Hospital) and Steve Hall ("Defendants"), answering for themselves and for no other defendant, respond to the Complaint of Plaintiffs ("Plaintiffs") on file herein as follows:

GENERAL DENIAL

2. Pursuant to Section 431.30(d) of the California Code of Civil Procedure, Defendants deny, generally and specifically, each and every allegation in Plaintiffs' Complaint. Defendants further generally and specifically deny that Plaintiffs have been damaged in the sums alleged, or any other sum, or at all, by reason of any act or omission to act on the part of Defendants or any of their agents, servants, employees or representatives. Defendants further deny, generally and specifically, that Plaintiffs are entitled to general, compensatory, punitive or other damages, in any amount, by reason of any act or omission to

1 act on the part of Defendants, or on the part of their agents, servants, employees or
2 representatives.

3 **FIRST AFFIRMATIVE DEFENSE**

4 3. The Court lacks jurisdiction over the subject matter of each cause of
5 action set forth in the Complaint.

6 **SECOND AFFIRMATIVE DEFENSE**

7 4. The Complaint herein and each purported cause of action contained
8 therein fails to allege facts sufficient to state a cause of action against Defendant.

9 **THIRD AFFIRMATIVE DEFENSE**

10 5. Plaintiffs are barred from any recovery under the Complaint herein and
11 each purported cause of action contained therein because Plaintiffs have failed to mitigate the
12 alleged damages, if any, as required by law.

13 **FOURTH AFFIRMATIVE DEFENSE**

14 6. The Complaint and each purported cause of action contained therein, is
15 barred in whole or in part by the applicable statutes of limitation, including without limitation
16 Code of Civil Procedure Sections 337(1), 337(3), 338(a), 339(1), 339(3), 340(1), 340(3) and
17 343.

18 **FIFTH AFFIRMATIVE DEFENSE**

19 7. Plaintiffs by their conduct have waived, and are estopped from asserting
20 or enforcing, any claim in the Complaint herein, and each purported cause of action contained
21 therein.

22 **SIXTH AFFIRMATIVE DEFENSE**

23 8. Plaintiffs' claim for damages are barred by California Labor Code
24 Section 3600 et seq., which provides the exclusive remedy.

SEVENTH AFFIRMATIVE DEFENSE

9. The Complaint and each purported cause of action contained therein, is barred in whole or in part by Plaintiffs' failure to exhaust internal and administrative remedies including, but not limited to, 29 U.S.C. § 1133.

EIGHTH AFFIRMATIVE DEFENSE

10. The Complaint, and each cause of action contained therein, fails to state facts sufficient to enable Plaintiffs to recover punitive or exemplary damages.

NINTH AFFIRMATIVE DEFENSE

11. The Complaint and each cause of action contained therein, does not state facts sufficient to enable Plaintiffs to recover punitive damages, costs or attorney's fees.

TENTH AFFIRMATIVE DEFENSE

12. Any acts alleged to have been committed by Defendants or any of its respective agents or employees were committed in the exercise of good faith and with probable cause, and were reasonable and justified under the circumstances then apparent.

ELEVENTH AFFIRMATIVE DEFENSE

13. Any alleged contract is unenforceable on the grounds of mistake.

TWELFTH AFFIRMATIVE DEFENSE

14. The Complaint and each cause of action or claim contained therein, is preempted by ERISA, 29 U.S.C. § 1001, *et seq.*

THIRTEENTH AFFIRMATIVE DEFENSE

15. If Defendants did commit any tortious act entitling Plaintiffs to recover for any loss suffered or sustained at the time alleged, although such is not admitted hereby or herein, then the total amount of damages to which Plaintiffs would otherwise be entitled shall be reduced in proportion to the amount of negligence attributable to Plaintiffs and which negligence directly and proximately contributed to Plaintiffs' loss or damage herein alleged.

TWENTIETH AFFIRMATIVE DEFENSE

22. The Complaint and each purported cause of action contained therein is barred in whole or in part by Plaintiffs' failure to exhaust internal and administrative remedies.

WHEREFORE, Defendants pray for judgment as follows:

(1) That Plaintiff's complaint and each cause of action thereof be dismissed with prejudice;

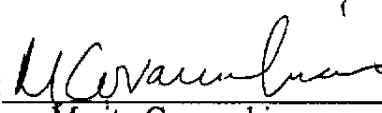
(2) That Plaintiff take nothing by reason of her complaint;

(3) That Defendants be awarded its costs incurred herein, including reasonable attorney's fees; and

(4) That the Court order such other and further relief for Defendants as the Court may deem just and proper.

DATED: May 20, 1998

LOEB & LOEB LLP
Raymond W. Thomas
Marita Covarrubias
Richard J. Frey

By: 
Marita Covarrubias
Attorneys for Defendants Tenet Healthcare
Corporation, Harbor View Medical Center and
Steve Hall

CIVIL COVER SHEET

ORIGINAL

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

OSCAR A. JUANITAS, JR., ET AL.

'98 cv 958 S (POR)

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF SAN DIEGO
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

TENET HEALTHCARE CORPORATION; HARBOR VIEW MEDICAL CENTER; STEVE HALL; AND DOES 1 THROUGH 10 INCLUSIVE

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT SAN DIEGO
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

GEORGE P. ANDREOS, APLC
11405 WEST BERNARDO COURT, STE. 203
SAN DIEGO, CALIFORNIA 92127-1639
(619) 675-8691

ATTORNEYS (IF KNOWN)

MARITA COVARRUBIAS/LOEB & LOEB LLP
10100 SANTA MONICA BLVD., STE. 2200
LOS ANGELES, CALIFORNIA 90067-4164
(310) 282-2000

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input checked="" type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395if) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIMW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights			

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

29 U.S.C. Section 1001, et. seq.

28:1441/m JAN

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☒ NO

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

May 20, 1998

Marita Covarrubias, Esq.

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IPP

JUDGE

MAG. JUDGE